

MEMORANDUM OF AGREEMENT (MOA)

Between

THE ALASKA DEPARTMENT OF HEALTH AND SOCIAL SERVICES

And

THE ALASKA DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT

Regarding

SMOOTH AND EFFECTIVE TRANSITIONS FROM PART C TO PART B AS
OUTLINED IN THE: Individuals with Disabilities Education Act (IDEA 2004)

I. Purpose

The purpose of this MOA is to set forth the responsibilities of the Alaska Department of Health and Human Services (DHSS) and the Alaska Department of Education and Early Development (EED) in supporting the effective transition of toddlers with disabilities and their families from early intervention programs under Part C to Part B preschool special education programs. This agreement:

- Serves as a source document for DHSS and EED to develop and disseminate materials, and to provide individual and joint training and/or technical assistance to Infant Learning Program Providers and School Districts on transition
- Outlines the procedures for the transition of toddlers with disabilities from Part C to Part B, ensuring the smooth transition authorized in 34 CFR §303.209(a)(3)(i)(A).
- Ensures families' rights to services for which they are eligible; outlines responsibilities of and coordination among DHSS, EED, EIS Programs and School Districts in implementing transition requirements.

II. Authority

Under IDEA 2004 (34 CFR §§303.209(a)(3)(i)(A) and 300.124), the state of Alaska must have on file with the Secretary policies and procedures to ensure that children participating in early intervention programs (Part C) and who will participate in preschool special education programs (Part B) experience a smooth and effective transition to those preschool programs.

III. Definitions

- A. Early Intervention Services means developmental services that are provided under public supervision, are selected in collaboration with the parents, are designed to meet the developmental needs of an infant or toddler with a disability and the needs of the family to assist appropriately in the infant's or toddler's

development, and are provided in natural environments in conformity with an IFSP. (34 CFR §303.13)

- B. Early Intervention Services Program or EIS Program means the local program of DHSS, responsible for the implementation of IDEA, Part C, early intervention services to eligible infants and toddlers aged birth to 3 and their families.
- C. Evaluation for Part B of IDEA means the procedures used that include a review of data and additional assessments, if needed to determine whether a student is eligible for special education and related services under Part B of the IDEA. The district selects the members of the evaluation group needed to conduct the evaluation. To meet eligibility, a student has a disability that is defined in the state special education regulations, the disability has an adverse educational impact, and the student needs specially designed instruction. (34 CFR §300.15)
- D. Evaluation for Part C of the IDEA means a timely, comprehensive, multidisciplinary process to determine eligibility for early intervention services under Part C. This includes administering an evaluation instrument, taking the child's history including interviewing the parent, identifying the child's level of functioning in all developmental areas, gathering information from other sources to understand the child's unique strengths and needs, and reviewing medical, educational, and other records. (34 CFR §303.321)
- E. Free Appropriate Public Education (FAPE) means special education and related services provided to students aged 3 to 21 that meet state standards and are provided through the development of an individualized education program. These services are provided at public expense under public supervision and direction, without charge to the parents. (34 CFR §300.101)
- F. Individualized Education Program (IEP) means a written statement of an educational program that is developed, reviewed, or revised in accordance with applicable federal and state laws for providing special education services to students who are eligible for special education. The IEP includes the special education and related services, and modifications and supports needed for the student to participate or appropriate activities for preschool. (34 CFR §300.320)
- G. Individualized Education Program Team or IEP Team means a group of individuals consistent with 34 CFR §300.321(a) and (b) that includes parents, district staff, others invited by the district or parent, and, at the request of the parent, the Part C Family Service Coordinator.
- H. Individualized Family Service Plan (IFSP) means the written plan required for providing early intervention services to an eligible infant or toddler and the child's family. (34 CFR §303.344)
- I. Individualized Family Service Plan Team or IFSP Team means the infant or toddler's family; Service Coordinator; service providers, and others, as identified on the plan. (34 CFR §303.343)
- J. Individuals with Disabilities Education Act (IDEA) means the federal law that addresses the requirements for identifying, evaluating, and serving eligible students. (20 USC §1400 et seq.)

1. Part C of the act addresses early intervention services for eligible infants and toddlers, ages birth to 3.
 2. Part B of the act addresses special education and related services for eligible students, ages 3 to 21.
- K. Lead Agency or LA is the Infant Learning Program at DHSS.
- L. Local Education Agency (LEA) means the school district responsible for IDEA services to resident children or students under Part B. (34 CFR §303.23)
- M. Potentially Eligible means toddlers eligible for Part C services that may be eligible for special education and related services under Part B. Based on Alaska's eligibility requirements for Part C and Part B, all children who receive Part C services in Alaska are potentially eligible for Part B preschool services.
- N. Service Coordinator means the person responsible for coordination and case management of early intervention services for infants and toddlers and their families. (34 CFR §303.34)
- O. State Education Agency or SEA is the Alaska Department of Education and Early Development.
- P. Transition means the process to transfer services and supports for toddlers with disabilities from Part C to Part B.
- Q. Transition Plan means a document that is part of the IFSP for all infants and toddlers. The plan must include Part C program options, steps, and potential services that may assist in transition.

IV. Responsibilities of Each Agency

The Parties agree to coordinate at the state level to ensure that implementation of the following transition steps occur at the local level, so that toddlers receive timely transitions:

A. Department of Health and Social Services (Part C)

1. Transition Timeline and Procedures

Throughout an infant or toddler's participation in early intervention, the family and the child's IFSP Team discuss the transition steps to be taken to ensure a smooth transition for the toddler when early intervention services end, by the toddler's third birthday. The provision of a FAPE through an IEP is required no later than the eligible toddler's third birthday.

2. Transition Notification

- a. DHSS and its EIS Programs will notify the SEA and the LEA (where the toddler receiving Part C services resides) at least 90 days and no more than nine months prior to the toddlers third birthday, that a toddler who is receiving Part C services and is potentially eligible for services under the Part B section 619 preschool program will exit the Part C program upon their third birthday, unless the parent opts out as

described in item 2(d) below. (IDEA section 637(a)(9)(A)(ii)(I) and 34 CFR §303.209(b))

- i. DHSS will notify EED when a Part C eligible child turns 27 months of age (or following the initial IFSP meeting within one month of enrollment if the child enrolls is after between 27 26 and 34.5 months of age)) unless the parents opt out of notification (see item (d) below). The notification includes directory information for Part C eligible children (full name (first, middle and last), date of birth, and parent contact information (including parents' names, addresses, and telephone numbers)).
 - ii. Unless the parent opts out of notification (see item (d) below) EIS programs will notify the LEA that a potentially eligible Part C child will shortly turn three years old and exit Part C through an invitation to the child's transition conference. This invitation to the LEA constitutes a referral to Part B.
 - iii. If a family does not provide approval for a transition conference and has not opted out of notification, the EIS program will provide a written notification to the LEA with the child's full name (first, middle and last), date of birth and parent contact information. This notification constitutes a referral to Part B.
- b. If an EIS Program determines that a toddler is eligible for early intervention services more than 45 days but less than 120 days before that toddler's third birthday, DHSS and the EIS Program will provide the Transition Notification to the SEA and LEA (where the toddler receiving Part C services resides) as soon as possible after determining the toddler's eligibility, unless the parent opts out of the notification as described in item (d) below. (34 CFR §303.209(b)(1)(ii))
 - c. If a child is referred to Part C fewer than 45 days before the toddler's third birthday, DHSS is not required to conduct an evaluation, assessment, or initial Individualized Family Service Plan (IFSP) meeting. If that child may be eligible for preschool services under Part B of the IDEA, DHSS, with parental consent required by 34 CFR §303.414, shall refer the toddler to the SEA and the appropriate LEA.
 - d. *Opt-Out Policy*. DHSS has adopted an opt-out policy under 34 CFR §§303.209(c) and 303.401(e). EIS Programs must inform the parents of a toddler with a disability of the intended disclosure of directory information and allow the parents at least one month (unless the child has an initial IFSP meeting between 26 and 34.5 months, when the opt out must be signed at the initial IFSP meeting) to opt out of the sharing of personally identifiable information with Part B.
 - i. EIS Programs will review the opt-out policy and the "Special Education Notification Opt Out form" at either the initial IFSP

meeting or the initiation of transition planning near the child's 24th month of age.

- ii. If the parent opts out by signing the "Special Education Notification Opt Out" form, within one month, DHSS EI/ILP and the local EIS program will not make the notifications above.
 - A. If an EIS program determines that a toddler is eligible for early intervention services between 26 and 34.5 months of age, the parent must sign the "Special Education Notification Opt Out" form at the initial IFSP meeting.
- iii. If the signed "Special Education Notification Opt Out" form is provided to parents at or prior to 26 months and is not received by the local EIS program by the time a child is 27 months old, notification will be sent.

3. Transition Conference to Discuss Services

With the family's approval, the EIS Program must conduct a transition conference for a toddler with disabilities who is receiving Part C services and who will be exiting the Part C program and is potentially eligible for Part B services. During the transition conference, the parties will discuss any services the toddler may receive under Part B. (IDEA section 637(a)(9)(A)(ii)(II) and (III) 34 CFR §303.209(c))

- a. Based on Alaska's definition of potentially eligible, all children who receive Part C services are potentially eligible for Part B and are provided a transition conference. Because all children are potentially eligible for Part B special education services, there are no transition conferences held for Part C children that are not potentially eligible for Part B.
- b. If the toddler is potentially eligible for Part B and the parent approves, the conference shall be held no later than 90 days before the toddler's third birthday, but at the discretion of all parties, the transition conference may occur up to 9 months before the toddler's third birthday.
- c. The transition conference may be combined with the IFSP meeting to develop the transition plan. (34 CFR §303.209(e))
- d. The transition conference shall be held at a time and location convenient for the family and in the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so. (34 CFR §303.342(d))
- e. Meeting arrangements shall be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they shall be able to attend. (IDEA 20 USC 1437 §637 (a)(9)(A)(ii)(II) – (III) and 34 CFR §§303.209(c) and 303.342(d) – (e))

- f. The Part C service coordinator is responsible for inviting meeting participants to the transition conference.
 - i. For the toddler who may be eligible for preschool services under Part B, the transition conference must include the parent or parents of the child, other family members (as requested by the parent), the EIS Program representative(s), the LEA representative(s), and other individuals required to be included in an initial or annual IFSP meeting in accordance with 34 CFR §303.343(a). While the meeting may be held without the LEA, both parties should make reasonable efforts to ensure attendance.
 - ii. Any transition conference must meet the requirements in 34 CFR §§303.342(d) (accessibility and convenience of meetings) and (e) (parental consent); §303.343(a) (initial and annual IFSP team meeting) and §303.209(e) (transition conference and meeting to develop transition plan).

4. The IFSP Transition Plan

The IFSP Team, including the family must establish a transition plan for each infant and toddler with a disability exiting the Part C program at least 90 days and not more than 9 months, before the toddler's third birthday. The transition plan must be included in the IFSP, using appropriate IFSP documentation and must describe any appropriate steps for the toddler to exit the Part C program and any transition services needed by the toddler and the family for transition to preschool or other appropriate services at age three. (IDEA sections 636(a)(3) and 637(a)(9)(C) and 34 CFR §§303.209(d) and 303.344(h))

- a. The transition plan in the IFSP must include the steps and services to be taken to support the smooth transition of the child from Part C services to:
 - i. Preschool services under Part B, to the extent that those services are appropriate;
 - ii. Other appropriate services.
- b. The transition steps required must include:
 - i. Discussions with, and training of, parents, as appropriate, regarding future placements and other matters related to the child's transition;
 - ii. Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting;
 - iii. Confirmation that, unless the parent chose to opt out, child find information about the child has been transmitted to the LEA or other relevant agency, in accordance with section IV.A.2 above and Alaska's opt out policy (section IV.A.2.d), and, with parental consent, transmission of additional information needed by the

LEA to ensure continuity of services from the Part C program to the Part B program, including a copy of the most recent evaluation and assessments of the child and the family and most recent IFSP; and

- iv. Identification of transition services and other activities that the IFSP Team determines are necessary to support the transition of the child. (IDEA 20 USC 1437(a)(9)(A)(i) and 34 CFR §303.344(h))
- c. The transition conference and the IFSP meeting to develop the transition plan may be combined in one meeting. (34 CFR §303.209(e))
- d. Any meeting to develop the transition plan must meet the requirement in 303 CFR §§303.342(d) and (3) and 303.343(a):
 - i. The transition conference shall be held at a time and location convenient for the family and in the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so. (34 CFR §303.342(d))
 - ii. Meeting arrangements shall be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they shall be able to attend. (34 CFR §303.342(d))
- e. The Part C Service Coordinator is responsible for inviting meeting participants to the transition conference.
 - i. For the toddler who may be eligible for preschool services under Part B, the transition conference must include the parent or parents of the child, other family members (as requested by the parent), the EIS Program representative(s), the LEA representative(s), and other individuals required to be included in an initial or annual IFSP meeting in accordance with 34 CFR §303.343(a). While the meeting may be held without the LEA, both parties should make reasonable efforts to ensure attendance. The invitation to the transition conference constitutes a referral to the LEA.
 - ii. Any transition conference must meet the requirements for an IFSP meeting in 34 CFR §303.342(d) and (e); §303.343(a) and §303.209(e). These requirements are described in detail in Section XIII of the ILP Policies and Procedures, Individualized Family Service Plans.
- b. The Service Coordinator and other IFSP team members shall review the program options for the toddler with a disability who is potentially eligible for Part B. The team also discusses with the family all early childhood options available in their community. Options may include preschool special education services, Head Start, private preschools,

and child care settings. (IDEA 20 USC 1437 §637(a)(9)(B) and 34 CFR §303.209(d)(1)(i))

5. Late Referrals to Part C

a. Initial Referral to Part C Between 33 and 34.5 Months of Age

Upon receipt of an initial referral of a toddler between 33 and 34.5 months of age, the EIS Program shall complete the eligibility determination process and hold an initial IFSP meeting within 45 calendar days of the referral. A transition plan is not required, but the initial IFSP must include appropriate transition content. Transition conferences are not required. The IEP must be in place by the student's third birthday.

b. Initial Referral to Part C Between 34.5 and 36 months of age

Upon receipt of an initial referral of a toddler between 33 and 34.5 months of age, an EIS Program is not required to complete the evaluation of the toddler to determine eligibility for Part C. Notification, transition planning and a transition conference are not required. With parental consent, the EIS Program shall refer toddlers to the LEA or assist the family in making the referral. The LEA will treat this as an initial referral for special education and not as a toddler served by Part C.

6. Data Sharing

DHSS will provide data requested by EED for the purpose of responding to any data requests by the US Department of Education requiring data that are readily available to Part C and not Part B. This includes data for the State Performance Plan and Annual Performance Reports required under IDEA.

B. Department of Education and Early Development (EED)

1. Transition Timeline and Procedures

For toddlers who are transitioning from Part C to Part B, LEAs shall ensure that an IEP has been developed and is implemented by the toddler's third birthday, when a toddler is eligible for special education services and the parent consents to initial services.

2. Transition Notification

EED will receive notification from DHSS. It will retain the information and use it to verify that eligibility is determined for all children exiting Part C and that IEPs are in place by the third birthday for eligible children.

The notification to the LEA from the EIS program, including through the invitation to the transition conferences, about a child who is potentially eligible for Part B and is reaching their third birthday shall be considered a referral to Part B. The LEA will provide parents with the appropriate notifications and determine the child's eligibility in order to have an IEP in place by the child's third birthday.

3. LEA participating in the Transition Conference

When invited, each LEA must participate in transition conferences arranged by EIS Programs for toddlers with disabilities who may be eligible for preschool services under Part B. (IDEA section 612(a)(9) and 34 CFR §300.124)

4. Eligibility for Preschool Special Education Services

- a. The LEA is responsible for reviewing existing data on the student, including information provided by parents and the EIS Program, to determine whether the toddler shall be evaluated for special education. If the LEA decides that it will not conduct an evaluation, the LEA shall provide the parent with prior written notice addressing the decision.
- b. If the toddler is to be evaluated, the LEA provides prior written notice that addresses the areas of assessments and requests the parents' informed written consent to conduct an initial evaluation. If the parent does not provide consent for the evaluation, the LEA may, but is not required to, ask the parent to participate in mediation in order to obtain their consent, or request a due process hearing to override the parent's refusal to consent.
- c. The LEA convenes the evaluation group and invites the parent(s) to explain the results of the evaluation; and to determine eligibility for Part B special education and related services. The LEA must also provide the parent with prior written notice addressing the eligibility decision.

5. Individualized Education Program (IEP) Team Meeting

- a. If a toddler is determined to be eligible for special education services, the LEA must hold an IEP team meeting to develop an IEP. The IEP team meeting may be held at the same time as the evaluation and eligibility meeting.
- b. The LEA is responsible for arranging an IEP meeting with the required IEP team members, by the toddler's third birthday. If requested by the parent, the LEA shall also invite the EIS Program's Service Coordinator to the IEP meeting to assist with the smooth transition of services. (34 CFR §300.321(f))
- c. If parents do not consent to the provision of initial services the district may not provide services to the toddler. If the parents refuse consent of initial services prior to the IEP meeting, the district is not required to convene an IEP meeting.
- d. When developing the initial IEP for all toddlers who transition from Part C services to Part B, the IEP team must consider the IFSP that contains the IFSP content (including the natural environments

statement) described in IDEA 20 USC 1437 §636(d) and its implementing regulations at 34 CFR §300.323(b)(1).

6. Data Sharing

EED will provide data requested by DHSS for the purpose of responding to requests by the US Department of Education. This includes data for the State Performance Plan and Annual Performance Reports required under IDEA.

Data requests outside the above will be handled through supplementary agreements between DHSS and EED.

V. Oversight Responsibility

- A. DHSS is responsible for oversight of all Early Intervention Servicer Providers' compliance with Part C and DHSS regulations, policies and procedures. This includes, but is not limited to, conducting compliance monitoring regarding transition requirements in Part C.
- B. EED is responsible for oversight of all School Districts' compliance with Part B and EED regulations, policies and procedures. This includes, but is not limited to conducting compliance monitoring regarding transition requirements under Part B.

VI. Confidentiality

DHSS and EED will ensure and maintain confidentiality of all child, family and student records.

VII. Parent Involvement

DHSS and EED will promote policies that provide families with information, resources and training, to support them in their role as partners in the planning of services for their children. Together the agency(ies) will ensure that parents are fully informed and have access to their rights and procedural safeguards under IDEA.

VII. Fiscal Responsibility

This agreement does not commit any financial responsibility from either party.

IX. Dispute Resolution

Should any dispute between DHSS and EED arise under this agreement that cannot be resolved the agencies will submit the dispute to the Office of the Governor for resolution by an appropriate designee. The education of the child will not be delayed or compromised pending resolution of the dispute.

X. Amendment

This agreement may be amended at the request of either DHSS or EED and the agreement of both parties at any time.

XI. Interpretation

This agreement is intended to protect the best interest of the child (and in Part C's case the family).

XII. Period of Performance

This agreement shall become effective on _____ and shall remain in force and effect until the agreement is terminated or amended.

The Parties have executed this Agreement.

State of Alaska

Department of Health and Human Services

State of Alaska

Department of Education and Early
Development

Signature

William J. Streur

Printed Name

Commissioner

Title

Date Signed

Signature

Mike Hanley

Printed Name

Commissioner

Title

Date Signed